

DEPARTMENT OF THE ARMY PERMIT

Permittee GENERAL PUBLIC

Permit No. GP 98-06 (199820006)

Issuing Office OMAHA DISTRICT, CORPS OF ENGINEERS

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

This permit authorizes land reclamation activities undertaken in accordance with the Abandoned Mine Land Program authorized under Title IV of the Surface Mining Control and Reclamation Act of 1977.

See Appendix A for description of authorized activities.

See Appendix C for application procedure.

Project Location:

Waters of the U.S. in Wyoming.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on July 31, 2003. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

See Appendix B for permit special conditions.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(PERMITTEE)

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

ROBERT D. VOLZ
(DISTRICT ENGINEER)
COLONEL, CORPS OF ENGINEERS

13 July 1998

BY: *Paul R. Wemhoener* (DATE)
PAUL R. WEMHOENER, P.E.
CHIEF, OPERATIONS DIVISION

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree)

(DATE)

THE STATE OF WYOMING



JIM GERINGER
GOVERNOR



Department of Environmental Quality

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002

ADMINISTRATION (307) 777-7758 FAX 777-7682	ABANDONED MINES (307) 777-6145 FAX 634-0799	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7368 FAX 777-6937	LAND QUALITY (307) 777-7756 FAX 634-0799	SOLID & HAZARDOUS WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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April 7, 1998

Mr. Thomas Johnson
U.S. Army Corps of Engineers
2232 Dell Range Blvd.
Cheyenne, WY 82009-4942

RE: Certification of pending Corps of Engineers permit number 199820006, General Permit 98-06, statewide land reclamation activities pursuant to the Abandoned Mine Land (AML) Program

Dear Mr. Johnson:

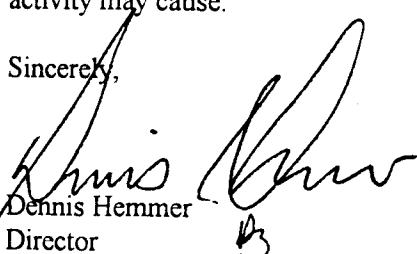
According to the provisions of the state certification program for activities requiring dredge and fill permits from the U.S. Army Corps of Engineers, this office has reviewed the above said application and offers the following comments regarding the proposed action:

The DEQ approves certification of this general permit. The Corps of Engineers may authorize activities under this general permit on all waters of the state in accordance with the terms and conditions of GP 98-06 without further certification from this office.

The Department reserves the right to amend, modify, suspend or revoke this certification or any of its terms or conditions as may be appropriate or necessary to protect water quality and associated beneficial uses.

Please be aware that this letter constitutes state certification of this General Permit 98-06 as required by Section 401 of the Federal Clean Water Act and in no way relieves any person from compliance with water quality standards or any other federal, state, or local laws or regulations, nor does it provide exemption from legal action by private citizens for damage to property that the activity may cause.

Sincerely,


Dennis Hemmer
Director
Department of Environmental Quality

DH/GB/CA/ks 81170.ltr

cc: Stan Bernard, DEQ AML
Tom Collins, Wyoming Game and Fish, Cheyenne
Dave Ruiter, EPA, Denver (8 EPR-EP)
Mike Long, US FWS, Cheyenne

4/13/98

PERMITTEE: General Public
DA PERMIT NO.: 199820006

APPENDIX A

AUTHORIZED ACTIVITIES

The following activities are authorized under General Permit (GP) 98-06. Each activity may be implemented individually or in combination with another type of activity. Authorized activities must comply with all permit conditions listed in Appendix B.

1. **Site Grading:** The purpose of this activity is to partially or completely eliminate roads, highwalls, pits, ditches, and other manmade landscape alterations that pose a threat to humans, livestock, or wildlife. Site grading may include filling of pits or ditches that contain wetlands or other waters to restore the natural topography, as much as possible, to its original contours or in a manner that will create gentle slopes that are not subject to erosion from surface runoff. Fill material may include soil that was sidecast during previous excavation activities at the site, or soil borrowed from upland locations.
2. **Stream Channel Restoration:** The purpose of this activity is to restore natural drainage patterns to prevent off-site degradation caused by soil erosion. In many instances, stream channels were altered to facilitate past mining operations by rerouting surface runoff. As a result, segments of the natural channel may have experienced accelerated erosion both upstream and downstream of the altered segment. Stream channel restoration includes excavation and filling activities necessary to establish a continuous channel that is uniform and stable, which may include restoration activities in natural stream channels upstream or downstream of the previously altered segment. Fill material for this activity would be limited to clean soil and rock from a suitable borrow source.
3. **Soil Amendments.** The purpose of this activity is to improve soil conditions in reclaimed areas that are not suitable for establishing vegetation without the addition of supplements such as wood chips, straw, lime, fertilizer, and calcium chloride. In most cases, the addition of soil amendments will not require authorization because it occurs primarily in upland areas. However, it may be necessary to amend soils in marginal wetland areas to improve vegetative cover while maintaining wetland characteristics.
4. **Mitigation.** The purpose of this activity is to replace wetlands and other waters impacted by reclamation activities. Most forms of mitigation do not require specific authorization, such as wetland creation in upland areas. However, there are situations where construction of a mitigation area has minor impacts on existing wetlands or other waters, such as expansion of an existing wetland or pond. Mitigation activities may also include removal of topsoil from wetland areas prior to reclamation in order to salvage the material for use at mitigation sites.

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APPENDIX B

PERMIT CONDITIONS

1. **Maximum Impacted Area:** No single project may impact more than **ten (10) acres** of wetlands and other waters of the United States in combination. All areas filled, inundated, excavated, or drained are considered to be impacted. A single project is usually defined as all activities undertaken in accordance with this permit on property owned by a single landowner. However, the Corps reserves the right to define project boundaries for purposes of GP 98-06.
2. **Scrub-Shrub Wetlands:** No activity is authorized that would impact scrub-shrub wetlands as identified under the Cowardin classification system. Any area identified on an NWI map with a "PSS" classification is likely to be a scrub-shrub wetland. Final determinations of wetland type will be made by the Corps based upon site specific vegetation data provided with a wetland delineation.
3. **Forested Wetlands:** No activity is authorized that would impact forested wetlands as identified under the Cowardin classification system. Any area identified on a NWI map with a "PFO" classification is likely to be a forested wetland. Final determinations of wetland type will be made by the Corps based upon site specific vegetation data provided with a wetland delineation.
4. **Organic Soils:** No activity is authorized in areas with organic soils which are defined as those areas with at least 8 inches of peat at the surface (Histic epipedon) and in some cases more than 16 inches of peat (Histosols).
5. **Mitigation:** All land reclamation projects must be designed to create wetland and open water elsewhere in the project area at a replacement ratio of at least 1.25:1 for wetland and 1:1 for open water. Higher ratios may be required for off-site wetland mitigation. Upland areas inundated to a depth of less than 3 feet or saturated to the ground surface will be considered as wetland mitigation. Upland areas inundated to a depth greater than 3 feet will be considered as open water. All wetland created in excess of the minimum necessary will be credited towards mitigation of the project's impacts. **Construction of the mitigation area must be completed when the project is completed.** Mitigation must be successful to satisfy this requirement. Success of the mitigation area will be based upon plant species and composition as compared to the wetland delineation completed prior to reclamation. Coverage of the area by hydrophytic plant species in all vegetation layers must be comparable to plant coverage that existed in wetland areas that were impacted by reclamation activities. Therefore, topsoil and root mass from wetland areas to be reclaimed must be salvaged and used in mitigation areas to the maximum extent possible in order to provide the best chance for mitigation success. The permittee must provide copies of annual inspection reports for mitigation areas and a post project wetland delineation, to be completed within 5 years after project completion, to document the relative success of mitigation. If mitigation is unsuccessful, the permittee will be required to implement another mitigation method that has been approved by the Corps.
6. **Water Quality:** In accordance with Section 401 of the Clean Water Act of 1972, the permittee must comply with all conditions contained in the attached letter dated April 7, 1998 from the Wyoming Department of Environmental Quality for those activities outside the boundaries of the Wind River Indian Reservation. The U.S. Environmental Protection Agency has denied the use of this permit on the reservation.

7. Historic Properties: No activity is authorized that would adversely impact sites included in the most current listing of the National Register of Historic Places or sites known to be eligible for such listing, sites included in the National Register of Natural Landmarks, or any other known historic, cultural, or archaeological sites until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C pursuant to the National Historic Preservation Act of 1966.

APPENDIX B

PERMIT CONDITIONS (continued)

8. Threatened and Endangered Species: No activity is authorized that is likely to jeopardize the continued existence of species, or their critical habitats, designated or proposed for designation as threatened or endangered pursuant to the Endangered Species Act of 1972.
9. Tribal Rights: No activity is authorized that would impair reserved Tribal rights; including, but not limited to, water, fishing, and hunting rights.
10. Aquatic Life Movement: No activity may substantially disrupt the movement of species indigenous to the waterbody, including migratory species, unless the activities purpose is to impound water.
11. Suitable Fill Material: No discharge may consist of unsuitable materials (e.g., trash, debris car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts as required by Section 307 of the Clean Water Act. In Wyoming, the Corps issued a prohibition against the use of certain materials as fill in a Public Notice issued on March 21, 1994.
12. Stockpiling: Storage of excess soil or unwanted vegetation in wetland areas is not authorized, even on a temporary basis.
13. Proper Maintenance: Any structure authorized, particularly impoundments, must be properly maintained, including maintenance necessary to ensure public safety.

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APPENDIX C

APPLICATION PROCEDURES

Any agency undertaking land reclamation activities in accordance with the Surface Mining Control and Reclamation Act of 1977 will be required to submit a **"Notice of Intent"** (NOI) at least 30 days prior to initiating any activities that could be authorized by GP 98-06. No activities are authorized until a letter of authorization has been provided to the applicant from the Corps in response to the NOI verifying that the activities comply with the terms and conditions of GP 98-06. The District Engineer retains discretionary authority to prohibit use of GP 98-06 if it is determined that a project would result in unacceptable impacts to the aquatic environment. The permittee is also responsible for obtaining any other applicable authorizations required from landowners, land management agencies, or other regulatory agencies which have authority over the activities.

All NOI's must contain the following information in order for the Corps to determine if the proposed project complies with the terms, conditions, and limitations of GP 98-06.

1. Landowner: Name, address, and telephone number of the landowner(s).
2. Adjacent Landowners: Names, addresses, and telephone numbers of all adjacent property owners and a statement that they have been notified about the project. Landowners are to be advised that they are allowed to submit comments on the project to the Corps Wyoming Regulatory Office.
3. Agency Coordination: The applicant is required to arrange a pre-design meeting and solicit comments from the Corps, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and the Wyoming Game and Fish Department. Plans showing the existing site conditions, including the hazard(s) at each site, must be provided to each of the agencies prior to the meeting along with a description of the proposed reclamation activities. Agencies will be given 30 days to provide written comments on the project following the meeting date. All comments will be provided to the Corps with copies to the applicant. The applicant must demonstrate in the NOI how the agency comments were addressed.
4. Project Location Map: A copy of the U.S. Geological Survey topographic map and/or the U.S. Fish and Wildlife Service National Wetland Inventory map for the entire project area.
5. Project Description: A brief written description of the project and a summary table. The project description must include the volume of fill and/or excavated material, borrow and disposal site locations, and any other pertinent information. The summary table must list the existing conditions, type of hazard, post reclamation conditions, and summary of impacts for each aquatic site in the project area.
6. Project Drawings: Drawings of the project on 11"x17" paper. Drawings must include at least one plan view of the project area showing existing open water and wetland boundaries and all project features including areas filled, inundated, excavated, and drained. Typical cross-sectional drawings showing existing and proposed topographic elevations, including water elevations, are required for mitigation areas.

APPENDIX C

APPLICATION PROCEDURES (continued)

7. Wetland Delineation: A wetland delineation for the entire project area must be completed. Delineations must be completed in accordance with the U.S. Army Corps of Engineers Wetland Delineation Manual dated January 1987 and any updates and supplements to the manual. Delineations must include all areas that meet the definition of wetland, as defined in the manual, and all other water features regardless of the delineators' opinion on jurisdiction. However, recommendations on jurisdiction are appropriate. The Corps will specify which areas are subject to regulation in its verification of the delineation results. **Therefore, the applicant must submit the delineation report to the Corps for verification prior to submitting a NOI.**

Delineation reports must include the following information:

- a. Legible wetland delineation data sheets that are properly completed. At least one data sheet must be provided for each wetland area and for each cover type that includes:
 - (i) Complete listing of dominant plant species, not necessarily a listing of all plant species observed. Any ecologically sound method for establishing dominance is acceptable. However, percent relative cover must be indicated on the data sheets for each plant species.
 - (ii) Both primary and secondary hydrology indicators. Identify if none are present.
 - (iii) Soil profile fully described based upon depth and horizon. A single MUNSELL soil color chart reading is unacceptable without a corresponding depth, preferably a range of depth such as 4-10 inches. Information on texture must be included for sand, gravel or other well drained soils. Hydric soil indicators must be based upon specific procedures as defined in the manual.
- b. Brief written discussion of the wetland delineation procedure and results. No specific report format is required. However, the report must include a description of the delineation procedure and results.
- c. Legible baseline delineation map showing both property and wetland boundaries. An actual survey of the wetland boundaries as flagged in the field is preferable. However, a copy of the official plat map or aerial photograph can be used as a baseline map. The baseline map must show where data points are located and there must be at least one data point for every wetland area. Maps must distinguish wetland areas based upon cover type such as shallow marsh, wet meadow, scrub-shrub, and forested. Project information should not be shown on the baseline delineation map.
- d. Photographs of each aquatic site in the project area.

All Notices of Intent or questions concerning the notification procedure must be sent to:

U.S. Army Corps of Engineers
Wyoming Regulatory Office
2232 Dell Range Blvd., Suite 210
Cheyenne, Wyoming 82009-4942
(307) 772-2300